



November 9, 2018

*Via ECFS*

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: *The Uniendo a Puerto Rico Fund and the Connect USVI Fund, et al.*  
*WC Docket Nos. 18-143, 10-90 and 14-58*

Dear Ms. Dortch:

In its recent meeting with the Wireline Competition Bureau (“Bureau”),<sup>1</sup> Broadband VI, LLC (“Broadband VI”) and the Bureau discussed the framework for selecting recipients of Stage 2 support in the Connect USVI Fund.<sup>2</sup> As a follow-up to that discussion, Broadband VI recommends adoption of the process and selection criteria described below.

As a threshold matter, Broadband VI reiterates its position that eligibility for Stage 2 support should be limited to those broadband providers that were serving customers as of June 30, 2017.<sup>3</sup> The Connect USVI Fund is not intended to support start-up businesses in the USVI that were unharmed by Hurricanes Irma and Maria. As Broadband VI stated, “there is too much risk in funding new entrants that do not have the experience and understanding of how to build and operate a successful network in the Virgin Islands.”<sup>4</sup> Further, the limited Stage 1 support that Broadband VI received does not cover Broadband VI’s losses in revenue and ongoing restoration and network hardening costs.

In its Comments and Reply Comments,<sup>5</sup> Broadband VI urged the Commission to award support through a competitive application process.<sup>6</sup> Broadband VI recommended that the

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<sup>1</sup> See Letter from Stephen E. Coran, Counsel to Broadband VI, to Marlene H. Dortch, FCC Secretary, WC Docket Nos. 18-143 and 11-42 (filed Oct. 24, 2018).

<sup>2</sup> *The Uniendo a Puerto Rico Fund and the Connect USVI Fund*, Order and Notice of Proposed Rulemaking, WC Docket Nos. 18-143, 10-90 and 14-58, FCC 18-57 (rel. May 29, 2018) (“*NPRM*”).

<sup>3</sup> See Comments of Broadband VI, LLC, WC Docket No. 18-143 (filed July 26, 2018) (“Broadband VI Comments”), at 5.

<sup>4</sup> *Id.*

<sup>5</sup> See Reply Comments of Broadband VI, LLC, WC Docket No. 18-143 (filed Aug. 8, 2018) (“Broadband VI Reply Comments”), at 8.

<sup>6</sup> See Broadband VI Comments at 4; Broadband VI Reply Comments at 3. Broadband VI continues to support a competitive process over and strongly opposes the efforts of ATN International, Inc. to have

Commission establish eligibility criteria and comparative criteria that awards preferences to experienced broadband providers based on “network resiliency, network deployment timing, and network performance.”<sup>7</sup> Below, Broadband VI recommends a specific, comprehensive proposal that the Commission should adopt for the Connect USVI Fund.

### ***Geographic Areas***

In its Comments, Broadband VI suggested that the Commission should award support for the USVI as a whole.<sup>8</sup> Broadband VI believes that the public interest would benefit by affording the Commission the flexibility to award support for either the USVI as a whole *or* for two geographic areas of the USVI (St. Thomas/St. John and St. Croix).<sup>9</sup> If the Commission were to select different recipients for each of two areas, those providers could focus their deployment efforts on a smaller geographic area, which could expedite service availability across the Territory.

Alternatively, the Commission could award support to more than one provider across all three islands. The benefits of this approach include network diversity and more robust competition. The downside is that providers would receive less support individually, deployment likely would take longer, and networks may not be as robust.

Broadband VI does not agree with Hughes’ suggestion that bids be evaluated by “a neutral third party arbiter.”<sup>10</sup> There is no evidence in the record that Commission staff is unable to “maintain the levels of objectivity and impartiality that an auction would provide” through a comparative selection process.<sup>11</sup> Moreover, the process of selecting a “neutral” third party will add time to the support process and unnecessarily divert funds from program recipients to the arbiter’s fees.

### ***Request for Applications***

The Commission should issue a Public Notice inviting any provider meeting the Commission’s eligibility criteria to submit confidential applications within 45 days thereof. The

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Stage 2 support directed solely to Viya, the incumbent local exchange carrier that has taken considerable time to restore its network while Broadband VI has expanded its customer base by 20 percent. *See* Letter from L. Charles Keller, Counsel to ATN International, Inc., to Marlene H. Dortch, FCC Secretary, WC Docket No. 18-143 (filed Nov. 7, 2018).

<sup>7</sup> Broadband VI Comments at 8 (footnote omitted).

<sup>8</sup> *See id.* at 7.

<sup>9</sup> St. Thomas and St. John are separated by four miles and have hourly ferry service. St. Croix is approximately 40 miles from St. Thomas. Geographically, St. Croix is considerably larger than St. Thomas and St. John combined.

<sup>10</sup> *See* Letter from Jennifer A. Manner and Jodi Goldberg, Hughes Network Systems, LLC, to Marlene H. Dortch, FCC Secretary, WC Docket Nos. 18-143, 10-90 and 14-58 (filed Oct. 23, 2018) (“Hughes Letter”), at 1. Broadband VI notes that Hughes’ proposals suggest the same rubric for both Puerto Rico and the USVI. The record shows significant differences between the two Territories – Puerto Rico has a much greater population, county-like municipios and a much larger number of providers.

<sup>11</sup> *Id.*



Public Notice should describe the factors that will be used to establish an applicant's basic eligibility and comparative criteria.

### ***Basic Eligibility Criteria***

Applicants should demonstrate that they meet the following basic qualifications:

- Provider of either voice or broadband service to end users in the USVI prior to Hurricanes Irma and Maria, as evidenced by the filing of FCC Form 477 as of June 30, 2017.
- Certification as an Eligible Telecommunications Carrier.
- Demonstrated experience and ability to construct a broadband and/or voice network in the USVI.
- Submission of audited financial statements for 2017 fiscal or calendar year.
- Certification that the provider will obtain a letter of credit or performance bond in the amount of the first year of the support term, and to maintain the letter of credit or performance bond until build-out obligations have been achieved and certified by USAC.
- Certification that the provider(s) will meet or exceed the following baseline deployment milestones in the designated support area(s):

	Entire USVI	Two Geographic Areas
Year One	0%	0%
Year Two	0%	0%
Year Three	0%	20%
Year Four	30%	40%
Year Five	40%	60%
Year Six	60%	80%
Year Seven	80%	100%
Year Eight	100%	NA

Applicants that meet the basic eligibility will have their applications considered on a comparative basis. In the interest of time and administrative efficiency, both basic eligibility and comparative criteria should be addressed in the same application.

### ***Comparative Criteria***

The Commission “propose[s] to select winning proposals based primarily on price per location served, while adjusting the bids to consider factors including network resiliency, network deployment timing, and network performance.”<sup>12</sup> Broadband VI generally agrees, but the record has exposed the flaws in determining the number of “locations” in USVI due to (1) the hurricanes’ destruction of residences and small businesses, (2) the correlated significant migration of the USVI population, and (3) the unique “estate” address nomenclature that makes

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<sup>12</sup> Order at ¶ 55.

it difficult to determine residential locations. Simply put, it is extremely difficult, if not impossible, to determine with any degree of accuracy the current number of locations and, in many cases, where the locations are actually situated.

Nor are there any suitable technology-neutral proxies or substitutes for location-based support, especially when considered alongside other priorities the *NPRM* identifies. For example, constructing a fixed wireless network likely would include deployment to all of the locations in the coverage footprint, but would not be as resilient as an underground fiber-to-the-home network and would include areas where there are no locations.

Accordingly, Broadband VI recommends that, in lieu of making support available primarily under a location-based model, the Commission should first evaluate proposals based on the other criteria – network resiliency, network deployment timing, and network performance.

The Commission should adopt comparative criteria system that allocates points based on the commitment of the applicant to meet certain obligations regarding network resiliency, network deployment timing, and network performance. In addition, Broadband VI proposes a category for network restoration that awards points based on how quickly certain portions of the network can be restored. Broadband VI agrees with Hughes that the comparative criteria should be “clear,” “simple” and “unambiguous,”<sup>13</sup> but proposes a different approach than that Hughes suggests. The table below outlines Broadband VI’s recommended approach.

	Points
<b>Network Resiliency and Restoration</b>	<b>50</b>
<b>Network Deployment Timing</b>	<b>20</b>
<b>Network Performance</b>	<b>30</b>
<b>TOTAL</b>	<b>100</b>

Within each category, points would be awarded based on the benchmarks described below.

#### *Network Resiliency and Restoration (50 points)*

Resiliency in the USVI is predicated on the ability of a network to survive a major hurricane. It is primarily a function of the technology or technologies used in the network, and can be augmented by use of diverse paths and/or diverse networks. The point scale should favor networks that are constructed with elements that are underground and not exposed to hurricane-force winds and networks that have diversity. An example of path diversity would be a fiber network with a separate ring or redundancy that would re-route traffic within the same network in the event a portion of the network were to fail. An example of network diversity would be a fiber network that would fail over to a satellite network.

A network constructed of underground fiber with some form of network or path diversity will be the most resilient and should be afforded the highest point total. A similar network

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<sup>13</sup> Hughes Letter at 1, 2.



combined with fixed wireless technology and diversity will be less resilient, but often times towers can withstand hurricane-force winds or be quickly restored. By contrast, aerial fiber on utility and telephone poles will be very susceptible to the elements and unlikely to withstand a major hurricane and, given the much larger number of poles, will take substantially longer to restore. Broadband VI is not aware of any satellite broadband service that would be eligible for Stage 2 support, but believes that satellite may be a useful source of network diversity under private contractual relationships with Stage 2 support recipients. Overall, network diversity should be awarded more points than path diversity that exists in the same network.

Broadband VI proposes the following for evaluating network resiliency commitments:

Deployment Technolog(ies)	Diversity	Points
Underground fiber	Network	40
	Path	30
	None	20
Underground fiber middle-mile + fixed wireless last-mile	Network	25
	Path	15
	None	5
Aerial fiber	Network	15
	Path	5
	None	0

In addition to network resiliency, applicants should be awarded up to 10 points based on their commitment to restore service on the constructed portion of their funded network within a given period of time. The percentage restored should refer to an estimate of the number of customers who lost the ability to receive service that are able to receive restored service. The estimates below assume the availability of electrical power supply where needed. Applicants can demonstrate their projected ability to meet these metrics through experience with restoration following the 2017 hurricanes and/or agreements with installation, trenching and tower-climbing crews. Broadband VI proposes the following:

Percentage Restored	Time Frame	Points
100	180 days	10
75	180 days	7
50	180 days	5
All others		0

#### *Network Deployment Timing (20 points)*

Deploying a network in a short amount of time should be a priority, but it is critical that resilience not be sacrificed for quickly-built networks that cannot withstand a major hurricane. Moreover, because of the difficulty in determining with granularity the number of “locations” in the USVI as a result of the hurricanes’ destruction of residences and small businesses, the corresponding migration of the USVI population, and the unique “estate” address nomenclature that makes it difficult to determine residential locations, the Commission should not over-

emphasize the network deployment timing criterion. In other words, relative to network resiliency and network performance, awarding significant points to network deployment timing would exacerbate the inaccuracies of a comparative criterion that is inherently imprecise and uncertain. As “proxies” for locations, the Commission could look to road segments, deployment to population centers, or U.S. Census Bureau data (for the latter, the loss in population and correlation to locations would need to be extrapolated from that data).

In addition, as described above, the network deployment timing point scale should reflect the fact that networks deployed by one provider over a larger area will take longer to construct than networks deployed by more than one provider over smaller areas. If the Commission awards support for the entire USVI as a *single area*, Broadband VI proposes that the Commission award 20 points to the provider that commits to the following accelerated milestone schedule:

	<b>Accelerate d</b>
<b>Year One</b>	0%
<b>Year Two</b>	0%
<b>Year Three</b>	25%
<b>Year Four</b>	50%
<b>Year Five</b>	75%
<b>Year Six</b>	100%
<b>Year Seven</b>	NA
<b>Year Eight</b>	NA
<b>Points</b>	<b>20</b>

If the Commission awards support for *two different areas* – St. Thomas/St. John and St. Croix – Broadband VI proposes that the Commission award 20 points to the providers that commit to the following accelerated milestone schedule:

	<b>Accelerate d</b>
<b>Year One</b>	0%
<b>Year Two</b>	20%
<b>Year Three</b>	40%
<b>Year Four</b>	60%
<b>Year Five</b>	80%
<b>Year Six</b>	100%
<b>Year Seven</b>	NA
<b>Year Eight</b>	NA
<b>Points</b>	<b>20</b>

#### *Network Performance (30 points)*

For network performance, the Commission should employ the same categories that it did for the Connect America Fund Phase II program, with one exception – because no satellite



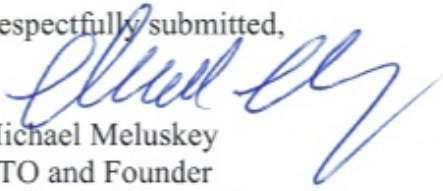
provider would be eligible to participate in Stage 2, high-latency bids should not be permitted.<sup>14</sup> The points assigned to each category should generally follow the weighting system the Commission adopted for the CAF Phase II auction, with some modifications. Broadband VI proposes the following:

Performance Tier	Speed	Usage Allowance (monthly minimum)	Points
Minimum	10/1 Mbps	150 GB	0
Baseline	25/3 Mbps	150 GB <sup>15</sup>	15
Above Baseline	100/20 Mbps	2 TB	30

Finally, Broadband VI reiterates its support for the Commission's suggestion that the Commission should reassess the deployment obligations before the end of the fifth year of support.<sup>16</sup> This will enable the Commission and stakeholders to consider how the process has worked and to reset aspects of the program in the event the deployment environment proves over time to be even more challenging than the rules anticipate.

In sum, Broadband VI appreciates that adopting selection criteria necessarily involves trade-offs among network robustness, deployment time, and resiliency, but believes that its proposal strikes the appropriate balance.

Respectfully submitted,



Michael Meluskey  
CTO and Founder  
Broadband VI, LLC

cc: Alexander Minard  
Rebekah Douglas  
Sue McNeil

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<sup>14</sup> Broadband VI proposes the same metrics the Commission used for the CAF Phase II auction. Low latency is round-trip of 100 milliseconds or less.

<sup>15</sup> Broadband VI does not propose to have this metric increase over time, as is the case with CAF Phase II recipients that must meet the higher of 150 GB or the U.S. median. While providers may seek to increase data allowances, the Commission should not require such increases as a condition of receiving support in the Connect USVI Fund.

<sup>16</sup> See Broadband VI Comments at 9-10.